

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

<b>Patricia J. Gibson,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Civil Action No.: 3:06-CV-974-MEF</b>
	)	
<b>v.</b>	)	
	)	
<b>WestPoint Stevens, Inc., and</b>	)	
<b>WestPoint Home, Inc.,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

**DEFENDANTS' MOTION FOR FEES AND EXPENSES**

COME NOW the Defendants, pursuant to this Court's Order, filed the 4th day of May, 2007, and move this Honorable Court to enter an order awarding Defendant the attorneys' fees and expenses incurred in making Defendants' Motion to Compel. In support of this motion, Defendants submit the following Exhibits:

1. The Declaration of Fred W. Suggs, Jr., with supporting documentation establishing an hourly rate of \$400 for Suggs' time, \$145 for Paralegal Sheri Childress, and \$60 for Paralegal Teresa Douglas. The statements for professional fees attached to Suggs' Affidavit (Attachments B, C, and D), document professional fees which have actually been billed to WestPoint Home, or will be billed to WestPoint Home, in the amount of \$4,303.50.

2. The Declaration of James C. Pennington, which establishes Mr. Pennington's hourly rate at \$295.

3. The Affidavit of Brian P. Murphy. Mr. Murphy testifies to the competence of Fred Suggs and the reasonableness of the hourly rate and time expended.

**WHEREFORE**, for the reasons stated in the Court's Order and the accompanying Memorandum, Defendants pray that this Motion be granted.

Dated this 9th day of May, 2007.

Respectfully submitted,

/s/ James C. Pennington

James C. Pennington  
(ASB-1287-N62J)

OGLTREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.  
One Federal Place  
1819 5<sup>th</sup> Avenue North, Suite 1000  
Birmingham, Alabama 35203-2118  
Telephone: (205) 328-1900  
Facsimile: (205) 328-6000  
[James.Pennington@odnss.com](mailto:James.Pennington@odnss.com)

Fred W. Suggs (ASB-3587-G61F)  
OGLTREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.  
300 North Main Street (29601)  
Post Office Box 2757  
Greenville, South Carolina 29602  
Telephone: (864) 271-1300  
Facsimile: (864) 235-4754  
[Fred.Suggs@ogletreedeakins.com](mailto:Fred.Suggs@ogletreedeakins.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on May 9, 2007, I electronically filed the foregoing **Defendants' Motion for Fees and Expenses** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Lateefah Muhammad

Respectfully submitted,

/s/ James C. Pennington

OF COUNSEL.

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

Patricia Gibson,

Plaintiff,

v.

WestPoint Stevens, Inc., and  
WestPoint Home, Inc.,

Defendant.

CIVIL ACTION NO.: 3:06-CV-0974-MEF

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DECLARATION OF FRED W. SUGGS, JR.

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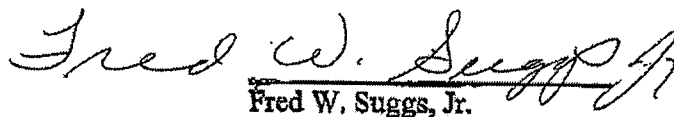
1. My name is Fred W. Suggs, Jr. I am over the age of 19 years. The statements in this declaration are based on my personal knowledge of the facts of this matter.
2. I graduated from the University of Alabama School of Law in 1975. I am admitted to the Bars of Alabama, Florida, and South Carolina.
3. I am a Shareholder in the law firm of Ogletree, Deakins, Nash, Smoak & Stewart, P.C., and have been a Shareholder continuously since January 1, 1980.
4. My Biography is included as Attachment A.
5. Ogletree, Deakins, Nash, Smoak & Stewart, P.C., maintains an office in Birmingham, Alabama. Although I occasionally work from the Birmingham office, my principal office is in Greenville, South Carolina.
6. My customary hourly rate is \$400 for all matters. The hourly rate for experienced paralegal Sheri Childress is \$145, and the paralegal rate for Teresa Douglas is \$60 an hour.

7. I have reviewed the attached statements for professional fees (Attachments B, C, and D), related to drafting the unanswered discovery and preparing a Motion to Compel and attest that the amounts listed are those that have actually been billed to WestPoint Home or will be billed to WestPoint Home. WestPoint Home has paid all of the statements, except those for April, which are not expected to be billed before May 10. Where entries contain descriptions of work which are not related to preparing the discovery or the motion to compel in this matter, a judgment has been made about the amount of time that was related to preparing the discovery or motion to compel and that reduced amount of time and the dollar value of the time are listed in brackets.

8. The entries on the attached statements for professional fees total \$4,303.50. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing information contained in this Declaration is true and correct and that any additions, modifications or deletions have been made and initialed by me.

Dated this 9th day of May, 2007.

Respectfully submitted,

  
Fred W. Suggs, Jr.

4949824.1



300 North Main Street  
Greenville, SC 29601  
Telephone: 864.271.1300  
Toll Free: 800.277.1410  
Facsimile: 864.235.8806  
fred.suggs@gletreedeakins.com

## **Fred W. Suggs, Jr.**

### **Practice Areas:**

Labor and Employment

### **Education:**

J.D., University of Alabama, 1975  
B.S., Kansas State University, 1970

### **Admitted to Practice:**

U.S. Supreme Court  
Alabama Supreme Court  
South Carolina Supreme Court  
Florida Supreme Court  
U.S. District Court - Northern, Southern and  
Middle Districts of Alabama; Eastern  
District of Arkansas; Florida; and South  
Carolina  
U.S. Court of Appeal - Fourth and Sixth  
Circuits

### **Professional Activities:**

Alabama Bar Association  
American Bar Association  
Florida Bar Association  
South Carolina Bar Association  
South Carolina Bar - House of Delegates  
South Carolina Bar Board of Governors -  
Member  
South Carolina Bar - Labor and Employment  
Section - Former Chairman  
Judicial Conference United States Court of  
Appeals for the Fourth Circuit - Permanent  
Member  
Certified Specialist in Labor and Employment  
Law by South Carolina Supreme Court  
Fellow of the College of Labor & Employment  
Lawyers

### **Position:**

Shareholder

Mr. Suggs has wide experience in labor and employment law. This experience ranges from advising clients on preventive measures to avoid formal charges and lawsuits, handling union campaigns, negotiating collective bargaining agreements, representing clients before the National Labor Relations Board and before the United States Courts of Appeals, to handling individual and class employment discrimination cases before the Equal Employment Opportunity Commission and the federal courts, as well as handling wrongful discharge and other employment-related litigation in state and federal courts.

Mr. Suggs was selected by his peers for listing in The Best Lawyers in America.

He has been made a fellow of the College of Labor and Employment Lawyers. He is a Certified Specialist in Labor and Employment Law.

Mr. Suggs has served the South Carolina Bar Association in many positions including Chairman of the Labor and Employment Section, Chairman of the Professional Responsibility Committee, Member of the Executive Committee of the Board of Grievances, and Thirteenth Judicial Circuit Representative to the House of Delegates. Mr. Suggs is currently on the Board of Governors, and serves as Secretary of the Bar.

**SUGGS: ATTACHMENT A**



**OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.**

Administrative Office  
918 South Pleasantburg Drive (29607)  
P.O. Box 167  
Greenville, South Carolina 29602  
Telephone: 864.241.1900  
Facsimile: 864.235.4649  
www.ogletreedeakins.com

March 7, 2007

L. Foy Fisher, III, VP Human Resources  
WestPoint Home, Inc.  
Post Office Box 71  
West Point, GA 31833

PERSONAL AND CONFIDENTIAL

Invoice # 465960  
Matter # 947124-000126

**Re: Patricia J. Gibson v. WestPoint Stevens, Inc., WestPoint  
Homes, Inc.**

For professional services rendered through February 28, 2007, in connection with the above-referenced matter as outlined on the attached detailed billing sheets:

PLEASE REMIT TO: Ogletree, Deakins, Nash, Smoak & Stewart, P.C.  
Post Office Box 89  
Columbia, SC 29202  
Federal ID # 57-1044820

Payable upon receipt.  
Direct inquiries to the billing attorney or the Account Services Department (864) 241-1900.

Atlanta, GA • Austin, TX • Birmingham,  
Greenville, SC • Houston, TX • Indian  
Phoenix, AZ • Pittsburgh, PA • Ri

**SUGGS: ATTACHMENT B**

olumbia, SC • Dallas, TX • Greensboro, NC  
wn, NJ • Nashville, TN • Philadelphia, PA  
CA • Tucson, AZ • Washington, DC



Page 2

03/07/07

Invoice No. 465960

947124-000126-FWS

L. Foy Fisher, III, VP Human Resources  
 WestPoint Home, Inc.  
 Post Office Box 71  
 West Point, GA 31833

**Re: Patricia J. Gibson v. WestPoint Stevens, Inc., WestPoint  
 Homes, Inc.**

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For professional services rendered through February 28, 2007:

Date	Initials	Description	Hours	Amount
02/14/07	FWS	Revise 26(a)(1); prepare First Interrogatories to Plaintiff.	0.50	200.00
02/16/07	FWS	Interrogatories, Requests to Admit, and Requests to Produce.	2.00	800.00
			[0.50	200.00]
02/16/07	SMC	Prepare Interrogatories, Request for Production and Request for Admissions.	2.50	362.50
			[1.00	145.00]
02/19/07	FWS	Prepare First Requests to Admit and references Bates numbers of certain important documents.	1.50	600.00
			[1.20	480.00]
02/19/07	SMC	Prepare Interrogatories, Request for Production and Request for Admissions; prepare documents for production; prepare letter to Plaintiff's counsel serving written discovery.	4.00	580.00

**TOTAL: \$1,605.00**

4941485.1



**OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.**

Administrative Office  
918 South Pleasantburg Drive (29607)  
P.O. Box 167  
Greenville, South Carolina 29602  
Telephone: 864.241.1900  
Facsimile: 864.235.4649  
www.ogletreedeakins.com

April 6, 2007

L. Foy Fisher, III, VP Human Resources  
WestPoint Home, Inc.  
Post Office Box 71  
West Point, GA 31833

PERSONAL AND CONFIDENTIAL

Invoice # 471997  
Matter # 947124-000126

**Re: Patricia J. Gibson v. WestPoint Stevens, Inc., WestPoint  
Homes, Inc.**

For professional services rendered through March 31, 2007, in connection with the above-referenced matter as outlined on the attached detailed billing sheets:

PLEASE REMIT TO: Ogletree, Deakins, Nash, Smoak & Stewart, P.C.  
Post Office Box 89  
Columbia, SC 29202  
Federal ID # 57-1044820

Payable upon receipt.  
Direct inquiries to the billing attorney or the Account Services Department (864) 241-1900.

Atlanta, GA • Austin, TX • Birmingham  
Greenville, SC • Houston, TX • Indian  
Phoenix, AZ • Pittsburgh, PA • F

**SUGGS: ATTACHMENT C**

Columbia, SC • Dallas, TX • Greensboro, NC  
New York, NY • Nashville, TN • Philadelphia, PA  
San Francisco, CA • Tucson, AZ • Washington, DC





Page 2  
04/06/07  
Invoice No. 471997  
947124-000126-FWS

L. Foy Fisher, III, VP Human Resources  
WestPoint Home, Inc.  
Post Office Box 71  
West Point, GA 31833

**Re: Patricia J. Gibson v. WestPoint Stevens, Inc., WestPoint  
Homes, Inc.**

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For professional services rendered through March 31, 2007:

Date	Initials	Description	Hours	Amount
03/23/07	FWS	Letter to Lateefah Muhammad regarding	1.00	400.00
		compliance with Rule 26(a) initial disclosures and	[.30	120.00]
		upcoming discovery deadline.		
03/26/07	FWS	Letter to Muhammad regarding 26(a) disclosures	0.30	120.00
		and responses to WPH written discovery.		

**TOTAL: \$240.00**

4941487.1

Unbilled Recap Of Time Detail - I947124-000126 - Patricia J. Gibson v. WestPoint Stevens, Inc., WestPoint  
 Client: 947124 - WestPoint Home, Inc. 05/02/2007 1:43:18 PM

Page 1

04/03/2007	0014	Fred W. Suggs Jr.	1.20	480.00	: follow up	947124-000126	4000405
			1.6	240.00	letter to Lateefah Muhammad regarding Rule		
					26(a) response and answer to discovery and		
					proposed telephone conference;		
					Muhammad; call to Lateefah Muhammad; letter		
					to Lateefah Muhammad.		
04/06/2007	6044	Sheri M. Childress	0.10	14.50	Telephone message and follow up e-mail to	947124-000126	3997389
					plaintiff's counsel regarding discovery.		

04/09/2007	0014	Fred W. Suggs Jr.	0.60	240.00		947124-000126	4002054
			1.20	80.00	call from Lateefah muhammad regarding		
					discovery, subpoenas, etc.		

04/16/2007	0908	James C. Pennington	0.30	88.50	Telephone call with Fred Suggs re:	947124-000126	4008534
					plaintiff's failure to produce documents and		
					respond to interrogatories and requests for		
					admission and re: plaintiff's objections to		
					subpoenas		
04/16/2007	0014	Fred W. Suggs Jr.	1.30	520.00		947124-000126	4012240
			1.50	200.00			
					receive and review letter from Lateefah		
					Muhammad dated April 13, regarding tardy		
					discovery; related research under FRCP and		
					local rules; letter to Lateefah Muhammad;		

SUGGS: ATTACHMENT D

Unbilled Recap Of Time Detail - 1947124-000126 - Patricia J. Gibson v. WestPoint Stevens, Inc., WestPoint  
Client: 947124 - WestPoint Home, Inc. 05/02/2007 1:43:18 PM

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Date	Time	Staff	Hours	Cost	Activity	Case Number	Notes
04/20/2007	6044	Sheri M. Childress	0.70	101.50	Review file and assemble potential attachments to Motion to Compel.	947124-000126	4023161
04/20/2007	0014	Fred W. Suggs Jr.	1.00	400.00	Prepare motion to compel.	947124-000126	4019289
04/23/2007	0014	Fred W. Suggs Jr.	2.30	920.00	Prepare Motion to Compel; letter to Lawrence Williams.	947124-000126	4024761
04/23/2007	6044	Sheri M. Childress	1.20	174.00	Prepare Memorandum Supporting Motion to Compel; prepare Motion to Compel Responses to Written Discovery; file Motion to Compel.	947124-000126	4028063

**TOTAL:           \$2,458.50**



**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

**Patricia Gibson,**

**Plaintiff,**

v.

**WestPoint Stevens, Inc., and  
WestPoint Home, Inc.,**

**Defendant.**

**CIVIL ACTION NO.: 3:06-CV-0974-MEF**

## DECLARATION OF JAMES C. PENNINGTON

1. My name is James C. Pennington. I am over the age of 19 years. The statements in this declaration are based on my personal knowledge of the facts of this matter.

2. I graduated from Vanderbilt University School of Law in 1990. I am admitted to the Alabama Bar.

3. I am a Shareholder in the law firm of Ogletree, Deakins, Nash, Smoak & Stewart,  
P.C.

4. My Biography is included as Attachment A.

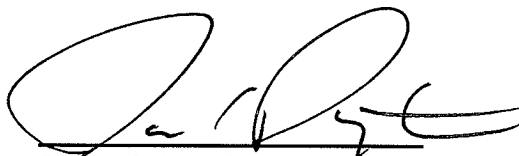
5. Ogletree, Deakins, Nash, Smoak & Stewart, P.C., maintains an office in Greenville, South Carolina. Although I occasionally work from the Greenville office, my principal office is in Birmingham, Alabama.

6. My customary hourly rate is \$295 for all matters.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing information contained in this Declaration is true and correct and that nay additions, modifications or deletions have been made and initialed by me.

Dated this 9th day of May, 2007.

Respectfully submitted,



James C. Pennington

4949793.1

# Ogletree Deakins

---

James C. Pennington



Shareholder  
james.pennington@ogletreedeakins.com

**Office(s):**  
Birmingham  
p: 205-328-1900  
f: 205-328-6000



**Practice Area(s):** Class Action Defense, Labor and Employment

**Bio:**

Mr. Pennington began practicing labor and employment law at a large, regional firm in Birmingham in 1990. Since that time he has concentrated his practice in the area of labor and employment law. He became a founding member of the Birmingham office of Ogletree Deakins in 1997.

Mr. Pennington represents employers before state and federal courts and administrative agencies such as the National Labor Relations Board and the Equal Employment Opportunity Commission. He also represents employers before arbitrators and administrative review bodies such as tenure commissions and personnel review panels. His litigation experience includes a broad range of employment-related issues, including discrimination, labor strikes, collective bargaining agreements, employment contracts, class actions, wage and hour disputes, trade secrets, non-competition agreements, and employee benefits. He also has substantial experience representing public employers and non-profit entities in the defense of first amendment and other constitutional and civil rights cases in state and federal courts.

Mr. Pennington devotes a large portion of his practice to counseling with employers on avoidance of labor and employment problems. He works with employers to develop preventive labor relations programs and assists clients in developing personnel policies, procedures and handbooks. Mr. Pennington frequently speaks to and trains human resources professionals and other managers on issues relating to employment.

**Education:**

J.D., Vanderbilt University School of Law, 1990  
B.A., Birmingham Southern College, *cum laude*, 1987

**Admitted to Practice:**

State of Alabama  
United States Supreme Court  
United States Court of Appeals for the Eleventh Circuit  
United States District Court for the Northern, Middle, and Southern Districts of Alabama

**Activities:**

American Bar Association - Labor and Employment Section Member, Alabama State Bar - Labor and Employment Section Member, National Association of College and University Attorneys

**PENNINGTON: ATTACHMENT A**

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

Patricia Gibson,

Plaintiff,

v.

WestPoint Stevens, Inc., and  
WestPoint Home, Inc.,

Defendant.

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CIVIL ACTION NO.: 3:06-CV-0974-MEF

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AFFIDAVIT OF BRIAN P. MURPHY

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COMES NOW, Brian P. Murphy, who, after being duly sworn, deposes and says:

1. I was born on May 24, 1965. I am competent to give this Affidavit.
2. I received a J.D. from the University of South Carolina in 1992. I am admitted to the Bars of Pennsylvania and South Carolina. I maintain my law office in Greenville, South Carolina, where I limit my practice to labor and employment law and commercial litigation. Although I occasionally represent defendants, my practice is primarily representing plaintiffs in labor and employment matters.
3. I am familiar with the law firm of Ogletree, Deakins, Nash, Smoak & Stewart, P.C. I know Fred W. Suggs, Jr., from practicing law with him from 1994 to 1996. I have participated in South Carolina Bar activities with Mr. Suggs and have enjoyed the numerous presentations he makes to our section of the Bar. I have held mediations in which Mr. Suggs represented one of the parties. I have had a number of employment cases where I represented the plaintiff, and Mr. Suggs represented the defendant as well as one case in which he represented a plaintiff corporation and I represented a defendant.

4. Mr. Suggs adheres to the highest ethical standards. He is extremely efficient and neither engages in unnecessary work nor prolongs proceedings. Mr. Suggs has an excellent reputation as a zealous, but fair advocate and is certainly considered to be one of the top defense employment litigators in South Carolina.

5. I have reviewed Mr. Suggs' Affidavit and the accompanying statements for services. I find both the hourly rate of \$400 and the time expended on discovery matters, including WestPoint Home's Motion to Compel Discovery, to be reasonable and customary.

6. I also am well familiar with Sheri Childress from having worked with her on several cases and from having her assist in a mediation that I conducted. Ms. Childress is an outstanding paralegal, who takes on responsibilities at a very senior level. Ogletree's clients are very well served by having her perform services at \$145 per hour.

Dated this 9th day of May, 2007.

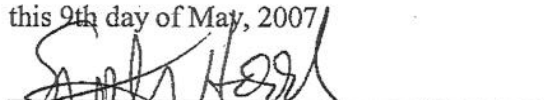
Respectfully submitted,



Brian P. Murphy (#6405)

BRIAN MURPHY LAW FIRM, P.C.  
708 E. McBee Avenue  
Greenville, South Carolina 29601  
Telephone: (864) 370-9400  
Facsimile: (864) 241-1386  
brian@brianmurphyllawfirm.com

SWORN TO and subscribed before me  
this 9th day of May, 2007

  
\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: ~~May 9, 2007~~

**My Commission Expires**  
**June 22, 2010**